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Attorneys for Plaintiff
United States of America

**UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS LAYMAN BINFORD,

Defendant.

Case No. 1:20-cr-00150-ADA-BAM

STIPULATION TO: (1) VACATE FEBRUARY 6, 2023 CHANGE OF PLEA HEARING; (2) SET APRIL 10, 2023 HEARING ON MOTION TO SUPPRESS; AND (3) SET BRIEFING SCHEDULE; ORDER

Ctrm: 1
Date: April 10, 2023
Time: 10:00 am.

Hon. Ana de Alba

STIPULATION

THE PARTIES HEREBY STIPULATE, through their respective counsel, Assistant United States Attorney, Brian W. Enos, on behalf of the government, and Mark D. Coleman, Esq., on behalf of defendant Thomas Layman Binford ("Binford"), that:

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1. this action's February 6, 2023 change of plea hearing be vacated;
2. a hearing on defendant's motion to suppress be set for Monday, April 10, 2023 (Cttrm 1, 10:00 am); and
3. the parties adhere to the following briefing schedule in advance of the hearing;
 - a. Defense's motions filing deadline – February 27, 2023,
 - b. Government's opposition brief filing deadline – March 20, 2023,
 - c. Reply brief filing deadline, if any – March 27, 2023.

The parties base this stipulation on good cause and therefore ask the court to endorse this stipulation by way of formal order. Specifically,

1. By December 27, 2022, and after extensive negotiations including: (1) follow up communications and investigation involving a broadened analyses of this case's electronic evidence, (2) additional queries made to this matter's arresting police officers, and (3) the resulting modification and delivery of an updated written plea offer whose terms had been discussed with defendant, the parties tentatively reached an agreement resolving this case. The terms of this agreement are memorialized in a plea agreement.
2. In light of the above and after clearing the date with chambers, the parties stipulated to set a change of plea hearing for Monday, February 6, 2023 (8:30 a.m.) regarding the scheduling of this hearing with chambers of Courtroom 1. The court endorsed the parties' stipulation in this regard by way of formal order dated December 29, 2022. Dkt. 51.
3. Since that time, defendant has expressed his intention that he will only proceed with a change of plea hearing if a certain potential suppression issue is first presented to the court. As a result, counsel for the parties met with the court in chambers on January 31, 2023, discussed the current status of the case, and cleared a hearing date for the matter to be heard. The parties have since likewise met and conferred, and through the same (as well as in consideration of their respective calendars) identified a workable briefing schedule in advance of the hearing.

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- 1 4. At the conclusion of the pending hearing on the motion to suppress, the parties will be
2 prepared to discuss with the court a course of action moving the case forward.
- 3 5. Pursuant to relevant provisions of 18 U.S.C. § 3161, the parties previously obtained a waiver
4 of time in this action through February 6, 2023 pursuant to the court's order of December 29,
5 2022. Dkt. 51. For the reasons set forth herein, the parties further stipulate that the period of
6 time from February 6, 2023 through April 10, 2023 is deemed excludable pursuant to 18
7 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i) and (iv) because it results from a continuance
8 granted by the Court at the parties' request on the basis of the Court's finding that the ends of
9 justice served by taking such action outweigh the best interest of the public and the defendant
10 in a speedy trial. In addition, the time period of February 27, 2023 through April 10, 2023,
11 inclusive, is further deemed excludable pursuant to 18 U.S.C. § 3161(h)(1)(D) because it
12 results from "any pretrial motion, from the filing of the motion through the conclusion of the
13 hearing on, or other prompt disposition of, such motion."

14 IT IS SO STIPULATED.

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16 Dated: February 2, 2023

PHILLIP A. TALBERT
United States Attorney

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18 By: /s/ Brian W. Enos
Brian W. Enos
Assistant United States Attorney

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20 *(As authorized 2/2/23)*

21 Dated: February 2, 2023

22 By: /s/ Mark D. Coleman
Mark D. Coleman, Esq.
Attorney for Defendant
23 Thomas Layman Binford
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ORDER

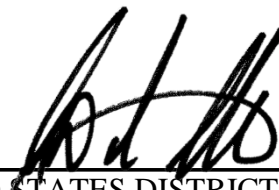
IT IS ORDERED that:

1. this action's February 6, 2023 change of plea hearing be vacated;
2. a hearing on defendant's motion to suppress be set for Monday, April 10, 2023 (Cttrm 1, 10:00 am); and
3. the parties adhere to the following briefing schedule in advance of the hearing;
 - a. Defense's motion filing deadline – February 27, 2023,
 - b. Government's opposition brief filing deadline – March 20, 2023,
 - c. Reply brief filing deadline, if any – March 27, 2023.

IT IS FURTHER ORDERED THAT the period of time from February 6, 2023 through April 10, 2023 is deemed excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i) and (iv) because it results from a continuance granted by the Court at the parties' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. In addition, the time period of February 27, 2023 through April 10, 2023, inclusive, is further ordered excludable pursuant to 18 U.S.C. § 3161(h)(1)(D) because it results from "any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion."

IT IS SO ORDERED.

Dated: February 2, 2023


UNITED STATES DISTRICT JUDGE